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OFFICE OF PETITIONS

In re Application of :
Jaime E. Ramirez-Vick et al : DECISION ON PETITION
Application No. 09/997,475 : UNDER 37 CFR 1.78(a)(3)
Filed: November 19, 2001 :
Attorney Docket No. 25527-0003 C1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1)

Petitioner failed to submit an amendment to the first sentence of the specification following the title to include a proper reference to the prior-filed applications or an Application Data Sheet.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

Further, the instant petition reference Application No. 09/977,475 rather than 09/997,475.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment¹ stating the relationship of the prior-filed applications to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

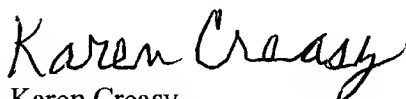
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Any questions concerning this matter may be directed to the undersigned at (703) 305-8859 .



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ Note 37 CFR 1.121